

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

CAROLYN H. MALONE,

Plaintiff,

vs.

SEATTLE POLICE DEPARTMENT, JON  
ENGSTROM, Police Officer, JASON BENDER,  
Police Officer, PATRICK HASKINS, Police  
Officer, B. CONWAY, Police Officer

Defendants.

NO. 2:19-cv-00868-MJP

DEFENDANTS REPLY IN SUPPORT  
OF SUMMARY JUDGMENT

NOTED ON THE CALENDAR:  
Friday, July 24, 2020

**I. RELIEF REQUESTED**

Defendants Seattle Police Department, and Seattle Police Department Officers Jon Engstrom, Jason Bender, Patrick Haskins, and B Conway, file this Reply in support of Defendant's Motion for Summary Judgment.

**II. ARGUMENT**

Defendants do not dispute that Plaintiff maintains a property interest in her Washington State vehicle operator's license or that this property interest cannot be suspended or revoked without due process. Defendants argue that they are entitled to summary judgment because there is no evidence that Defendants participated in the suspension or revocation of Appellant's vehicle operator's license regardless of whether the suspension or revocation was with due process or not.

**A. Plaintiff fails to establish a *Monell* claim**

Plaintiff's response fails to identify any municipal policy, custom, or practice, that caused or contributed to the suspension of her Washington State vehicle operator's license and Plaintiff cannot maintain a *Monell* action against the City without this evidence. It is Plaintiff's burden to present evidence to establish a direct causal link between the municipal action and the alleged constitutional deprivation. *Board of County Commissioners v. Brown*, 520 U.S., 397, 416, 117 S.Ct. 1382, 137 L.Ed.2d 696 (1997). Here, the only evidence before the Court is that Plaintiff's license was suspended because she failed to present medical evidence as requested by the Washington State Department of Licensing. There is no evidence that a Seattle Police Department policy, custom, or practice caused or contributed to the Washington State Department of Licensing's decision and for this reason Plaintiff's *Monell* claim against the City should be dismissed.

**B. Plaintiff fails to establish that the individual Officers participated in a Constitutional Violation**

Plaintiff's claims against the individual officers must be dismissed because Plaintiff fails to produce any evidence that the officers individually or collectively participated in a constitutional violation that resulted in or contributed to the suspension of her vehicle operator's license as alleged. It cannot reasonably be disputed that the exclusive authority to suspend or revoke a Washington State Vehicle Operator's License rests with the Director of the Washington State Department of Licensing. It also cannot be disputed that Plaintiff failed to present any evidence that Defendants individually or collectively caused or contributed to the Department of Licensing's decision to suspend Plaintiff's license in this case. There simply is no evidence to tether any action by the Defendant's to Appellant's license suspension and absent evidence to establish this tether, Plaintiff's claims should be dismissed.

1 **C. FRCP 56 (c)(4)**

2 Plaintiff's 15-page handwritten response contains a multipage hearsay attachment  
 3 without an accompanying declaration or affidavit required by FRCP 56. The response,  
 4 standing alone, contains Plaintiff's contentions and not evidence that is required to defeat  
 5 summary judgment. The attachment contains inadmissible hearsay that would not be  
 6 admissible at trial and for that reason is objectionable. Notwithstanding the objection, even if  
 7 the attachment is considered, the material contained therein does not establish that the City,  
 8 through policy or practice, or that actions of the individually named officers, violated the  
 9 Fourth, Fifth, or Eight Amendments to the Constitution as alleged.

10 **III. CONCLUSION**

11 Neither Plaintiff's Complaint nor her response to this motion establish that Defendants  
 12 committed a constitutional violation that proximately caused her harm. Plaintiff's Washington  
 13 State Vehicle Operator's License was suspended, but there is no evidence that Defendants are in  
 14 any way responsible for the suspension. Plaintiff has not shown that Defendants, individually or  
 15 collectively, violated any rights guaranteed to her under the Fourth, Fifth, or Eight Amendments  
 16 to the Constitution and for these and all the above reasons, the Court should grant Defendant's  
 17 motion for summary judgment and dismiss Plaintiff's Complaint in its entirety.

18 DATED this 27th day of July, 2020.

19  
 20 s/ Gregory E. Jackson

GREGORY E. JACKSON, WSBA #17541

21 JOHN R. NICHOLSON, WSBA #30499

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25 Attorneys for Seattle Police Department, Detective Jon  
 26 Engstrom, Officer Jason Bender, Officer Patrick Haskins,  
 and Officer B. Conway

**CERTIFICATE OF SERVICE**

I certify that I electronically filed the foregoing with the Court through ECF Filing System and served on all parties or their counsel of record a copy of this document addressed as follows:

Carolyn H. Malone  
910 Marion Street, Apt. 505  
Seattle, WA 98104

Plaintiff Pro Se

- ☐ King County E-service  
☒ U.S. Mail Postage Prepaid  
☐ ABC/Legal Messenger  
☐ Email

DATED this 27th day of July, 2020, at Renton, Washington.

s/Kathie Fudge  
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